



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

December 11, 2002

Ms. Jan Clark
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2002-7047

Dear Ms. Clark:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 173531.

The City of Houston (the "city") received a request for a listing of all vehicles owned by the city, including (1) the year, make, model, and color of each vehicle, (2) vehicle identification numbers, (3) the city department or division responsible for each vehicle, (4) license plate numbers, (5) and each vehicle's current assigned driver. You state that you have released some of the requested information to the requestor. You claim that the remainder of the requested information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You argue that the city must withhold the vehicle identification numbers and license plate numbers under section 552.130 of the Government Code. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

You tell us that you did not submit the vehicle identification numbers and license plate numbers for our review because the same information was addressed by our office in Open Records Letter No. 2000-0645 (2000). To the extent that the requested information consists

of precisely the same vehicle identification numbers and license plate numbers addressed in our previous ruling, you may rely on that ruling. *See* Open Records Decision No. 673 at 6-7 (2001). To the extent that any vehicle identification numbers and license plate numbers issued by the State of Texas remain, you must withhold them under section 552.130.

You also argue that the requested information is protected by section 552.108 of the Government Code. Section 552.108, the “law enforcement exception,” provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

....

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of section 552.021 if:

(1) the release of the internal record or notation would interfere with law enforcement or prosecution;

Gov’t Code § 552.108(a)(1)-(2), b(1)-(2). When a governmental body claims section 552.108, it must demonstrate how release of the information would interfere with law enforcement, if the information does not supply that explanation on its face. Open Records Decision No. 434 at 3 (1986). You assert that the submitted information lists identifiers of all covert vehicles used by the city’s police department to investigate crime in undercover capacities and, therefore, release of the information could compromise the police department’s covert operations and endanger the lives of undercover officers. However, we conclude that you have not demonstrated how release of the submitted information that is not otherwise protected under section 552.130 could be used to compromise covert vehicles. Therefore, you may not withhold the information under section 552.108.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full

benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

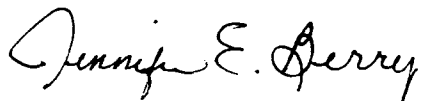
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Jennifer E. Berry". The signature is written in a cursive, flowing style.

Jennifer E. Berry
Assistant Attorney General
Open Records Division

JEB/sdk

Ref: ID# 173531

Enc: Submitted documents

c: Mr. Dwayne Stolfus
Guardian Alarms
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(w/o enclosures)